

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

EDWARD BURNETT, JR.,

Plaintiff,

-against-

6:02-CV-0677
(LEK/DEP)

JO ANNE B. BARNHART, Commissioner
of Social Security,

Defendant.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on April 27, 2005 by the Honorable David E. Peebles, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York.

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," Fed. R. Civ. P. 72(b), in compliance with L.R. 72.1. In the interval of at least 15 days since the Magistrate Judge filed the subject Report-Recommendation, no objections to it have been raised. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

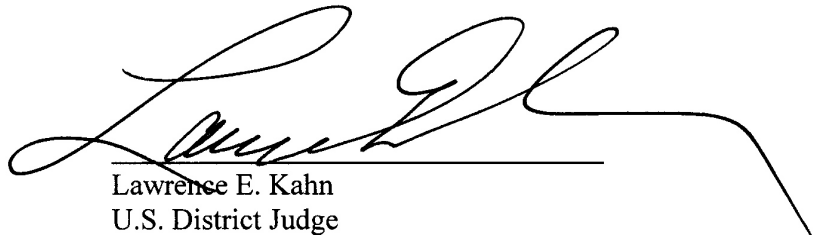
ORDERED, that the Report-Recommendation is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

ORDERED, that Plaintiff's motion for judgment on the pleadings be **GRANTED**, the Commissioner's determination denying Plaintiff's application for SSI benefits **VACATED**, and the case **REMANDED** to the Commissioner with a directed finding of disability for the sole purpose of calculating benefits owing to the plaintiff; and it is further

ORDERED, that the Clerk serve a copy of this order on all parties.

IT IS SO ORDERED.

DATED: June 30, 2005
Albany, New York



Lawrence E. Kahn
U.S. District Judge